

CORRECTIONS DEPARTMENT[201]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 904.108, the Iowa Department of Corrections hereby gives Notice of Intended Action to amend Chapter 38, “Sex Offender Management and Treatment,” Iowa Administrative Code.

The purpose of these amendments is to ensure that the Department’s administrative rules are consistent with 2009 Iowa Acts, Senate File 340, which makes statutory changes to the Iowa sex offender registry process. 2009 Iowa Acts, Senate File 340, took effect on July 1, 2009. The amendments proposed herein implement the changes made by that legislation.

Any interested person may make written suggestions or comments on the proposed amendments on or before December 22, 2009. Such written material should be sent to the Department of Corrections, Legal and Policy Division, 510 E. 12th Street, Des Moines, Iowa 50319.

There will be a public hearing on December 22, 2009, from 11 a.m. to 1 p.m. in the First Floor Conference Room at the Iowa Department of Corrections Building, 510 E. 12th Street, Des Moines, Iowa, at which time persons may present their views orally or in writing. At the hearing, persons will be asked to give their names and addresses for the record and to confine their remarks to the subject matter of the amendments.

Any persons who intend to attend the public hearing and have special requirements should contact the Department of Corrections and advise of specific needs.

These amendments are intended to implement Iowa Code section 904.108 and 2009 Iowa Acts, Senate File 340.

The following amendments are proposed.

ITEM 1. Amend rule 201—38.1(692A,903B) as follows:

201—38.1(692A,903B) Application of rules. The following rules apply to sex offender ~~registration~~ electronic monitoring and hormonal intervention therapy.

ITEM 2. Rescind rule 201—38.2(692A,903B) and adopt the following new rule in lieu thereof:

201—38.2(692A,903B) Electronic monitoring. It is the intent of the Iowa department of corrections that the electronic monitoring system (EMS) shall be used to enhance public safety. Appropriate levels of EMS should be used to verify the location and restrict the movement of sex offenders based upon a validated risk assessment, the sex offender’s criminal history, progress in treatment and supervision, and other relevant factors. EMS is additionally governed by the provisions of department of corrections policy OP-SOP-06.

38.2(1) Definitions.

“*Electronic monitoring system*” or “*EMS*” is a term used collectively for technology that determines the location of offenders who have restricted movement while being supervised in their respective community. EMS may also incorporate the ability to conduct random substance abuse testing.

“*Offender*” means a person who is required to register with the Iowa sex offender registry.

38.2(2) Selection of offenders for EMS. All offenders on supervision for a current sex offense who are required to be registered as a sex offender under Iowa Code chapter 692A shall be placed on EMS immediately after assignment to supervision. This level may be changed based on risk assessment.

38.2(3) Risk assessment instrument. All required risk assessments shall be conducted utilizing the risk assessment instruments outlined below as approved by the department of corrections. The risk assessment should be completed within 30 days prior to the offender's release from custody or upon the offender's placement on probation, parole, or work release.

a. Static-99. Designed for adult male sex offenders aged 18 and over and juvenile male offenders waived to adult court who have a specific identified victim.

b. ISORA-8. Designed for adult male and female sex offenders aged 18 and over who may or may not have a specific identified victim.

c. Stable 2007. Designed to assess dynamic risk factors for sex offense recidivism for the purpose of treatment, supervision, and monitoring of sex offenders primarily on community correctional supervision.

d. Level of service inventory—revised. A quantitative risk assessment instrument to determine the offender's criminogenic risk, programming needs and the required level of service.

38.2(4) Notification of victims. A judicial district department of correctional services shall notify a registered victim regarding a sex offender convicted of a sex offense against a minor who is under the supervision of a judicial district department of correctional services of the following:

a. The beginning date for use of an electronic tracking and monitoring system to supervise the sex offender and the type of electronic tracking and monitoring system used.

b. The date of any modification to the use of an electronic tracking and monitoring system and the nature of the change.

NOTE: Notification includes the initial notification to victims of the date that an offender has been placed on an electronic monitoring device, notification as to the date an electronic monitoring device was changed with greater or less monitoring capabilities (GPS to radio frequency or radio frequency to GPS), and notification as to the date the offender was removed from an EMS.

38.2(5) Additional rules. The department of public safety's rules regarding the Iowa sex offender registry are published in 661—Chapter 83.

ITEM 3. Rescind and reserve rule **201—38.3(692A)**.

ITEM 4. Amend **201—Chapter 38**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 692A as amended by 2009 Iowa Acts, Senate File 340, and Iowa Code chapter 903B.